

# **EXHIBIT 1**

Filed 07/05/2007 Page 3 of 7

ORIGINAL

at 3 o'clock and 40 min. WALTER A. Y. H. CHINN CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

Plaintiff,

**VS.**

FLEMING COMPANIES, INC., aka  
FLEMING FOODS, INC., aka  
FLEMING,  
DOE INDIVIDUALS 1-50 AND  
DOE PARTNERSHIPS,  
CORPORATIONS AND OTHER  
ENTITIES 1-20,

### Defendants.

) CIVIL NO. 01 00446 SPK LEK

# SPECIAL VERDICT FORM

## SPECIAL VERDICT FORM

## A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes X

No \_\_\_\_\_

If "YES" go to next question.

If "NO", skip to section B.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes ☒No ☐

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes ☒No ☐

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes ☒No ☐

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$98,250.00

**B. CRYSTAL REPORTS SOFTWARE**

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes ☒No ☐

If "NO", skip to section C.

If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes ☒No ☐

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes ☐No ☒

If "NO" skip to section C.

If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes ☐No ☐

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?
- \_\_\_\_\_

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes X No \_\_\_\_\_

If "YES" go to next question.

If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes X No \_\_\_\_\_

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes \_\_\_\_\_ No X

If "NO" skip to the end.

If "YES" go to next question.

4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes \_\_\_\_\_

No \_\_\_\_\_

Go to the next question.

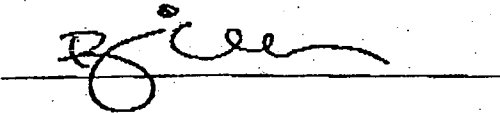
5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?

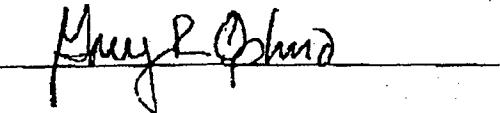
\_\_\_\_\_

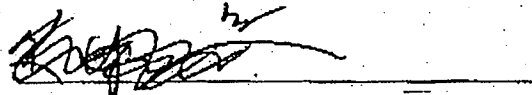
Please sign and date this Special Verdict Form.

  
Jury Foreperson

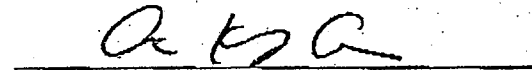


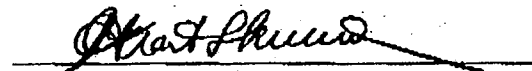


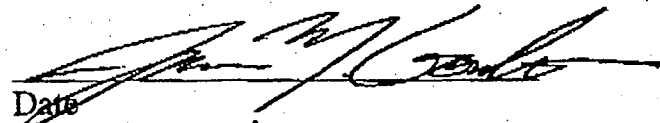




Carol Ho Akimoto







Date

3/6/03